

Chapter 19d
State Post-Retirement Benefits Trust Fund Act

Part 1
General Provisions

67-19d-101 Title.

This chapter is known as the "State Post-Retirement Benefits Trust Fund Act."

Enacted by Chapter 99, 2007 General Session

67-19d-102 Definitions.

As used in this chapter:

- (1) "Board of trustees" or "board" means the board of trustees created in Section 67-19d-202.
- (2) "Income" means the revenues received by the state treasurer from investments of the trust fund principal.
- (3) "Trust fund" means the State Post-Retirement Benefits Trust Fund created by Section 67-19d-201.

Enacted by Chapter 99, 2007 General Session

Part 2
Creation and Governance of the Post-Retirement Benefits Trust Fund

67-19d-201 Trust fund -- Creation -- Oversight -- Dissolution.

- (1) There is created a post-retirement benefits trust fund entitled the "State Post-Retirement Benefits Trust Fund."
- (2) The trust fund consists of:
 - (a) revenue provided from an ongoing labor additive as defined in Subsection 67-19d-202(2)(g);
 - (b) appropriations made to the fund by the Legislature, if any;
 - (c) income as defined in Section 67-19d-102; and
 - (d) other revenues received from other sources.
- (3) The Division of Finance shall account for the receipt and expenditures of trust fund money.
- (4)
 - (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Trust Fund Investments.
 - (b)
 - (i) The trust fund shall earn interest.
 - (ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.
- (5) The board of trustees created in Section 67-19d-202 may expend money from the trust fund for:
 - (a) the employer portion of the costs of the programs established in Sections 67-19-14 through 67-19-14.4; and
 - (b) reasonable administrative costs that the board of trustees incurs in performing their duties as trustees of the trust fund.
- (6) The board of trustees shall ensure that:

- (a) money deposited into the trust fund is irrevocable and is expended only for the employer portion of the costs of post-retirement benefits;
 - (b) assets of the trust fund are dedicated to providing benefits to retirees and their beneficiaries according to the terms of the post-retirement benefit plans established by statute and rule; and
 - (c) creditors of the board of trustees and of employers liable for the post-retirement benefits may not seize, attach, or otherwise obtain assets of the trust fund.
- (7) When all of the liabilities for which the trust fund was created are paid, the Division of Finance shall transfer any assets remaining in the state trust fund into the appropriate fund.

Amended by Chapter 342, 2011 General Session

67-19d-201.5 Elected Official Post-Retirement Benefits Trust Fund -- Creation -- Oversight -- Dissolution.

- (1) There is created the "Elected Official Post-Retirement Benefits Trust Fund."
- (2) The Elected Official Post-Retirement Benefits Trust Fund consists of:
 - (a) appropriations made to the fund by the Legislature for the purpose of funding the post-retirement benefits in Section 49-20-404;
 - (b) revenues received by the state treasurer from the investment of the Elected Official Post-Retirement Benefits Trust Fund; and
 - (c) other revenues received from other sources.
- (3) The Division of Finance shall account for the receipt and expenditures of money in the Elected Official Post-Retirement Benefits Trust Fund.
- (4)
 - (a) Except as provided in Subsection (4)(c), the state treasurer shall invest the Elected Official Post-Retirement Benefits Trust Fund money by following the same procedures and requirements for the investment of the State Post-Retirement Benefits Trust Fund in Part 3, Trust Fund Investments.
 - (b)
 - (i) The Elected Official Post-Retirement Benefits Trust Fund shall earn interest.
 - (ii) The state treasurer shall deposit all interest or other income earned from investment of the Elected Official Post-Retirement Benefits Trust Fund back into the Elected Official Post-Retirement Benefits Trust Fund.
 - (c) The Elected Official Post-Retirement Benefits Trust Fund is exempt from Title 51, Chapter 7, State Money Management Act.
- (5) The board of trustees created in Section 67-19d-202 may expend money from the Elected Official Post-Retirement Benefits Trust Fund for:
 - (a) the employer portion of the cost of the program established in Section 49-20-404; and
 - (b) reasonable administrative costs that the board of trustees incurs in performing its duties as trustees of the Elected Official Post-Retirement Benefits Trust Fund.
- (6) The board of trustees shall ensure that:
 - (a) money deposited into the Elected Official Post-Retirement Benefits Trust Fund is irrevocable and is expended only for the employer portion of the costs of post-retirement benefits under Section 49-20-404; and
 - (b) creditors of the board of trustees and of employers liable for the post-retirement benefits may not seize, attach, or otherwise obtain assets of the Elected Official Post-Retirement Benefits Trust Fund.

- (7) When all of the liabilities for which the Elected Official Post-Retirement Benefits Trust Fund was created are paid, the Division of Finance shall transfer any assets remaining in the Elected Official Post-Retirement Benefits Trust Fund into the appropriate fund.

Enacted by Chapter 376, 2012 General Session

67-19d-202 Board of trustees of the State Post-Retirement Benefits Trust Fund and the Elected Official Post-Retirement Benefits Trust Fund.

- (1)
- (a) There is created a board of trustees of the State Post-Retirement Benefits Trust Fund and the Elected Official Post-Retirement Benefits Trust Fund composed of three members:
 - (i) the state treasurer or designee;
 - (ii) the director of the Division of Finance or designee; and
 - (iii) the executive director of the Governor's Office of Management and Budget or designee.
 - (b) The state treasurer is chair of the board.
 - (c) Three members of the board are a quorum.
 - (d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
 - (e)
 - (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees.
 - (ii) The Division of Finance shall provide accounting services for the trust fund.
- (2) The board shall:
- (a) on behalf of the state, act as trustee of the State Post-Retirement Benefits Trust Fund created under Section 67-19d-201 and the Elected Official Post-Retirement Benefits Trust Fund created under Section 67-19d-201.5 and exercise the state's fiduciary responsibilities;
 - (b) meet at least twice per year;
 - (c) review and approve all policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports;
 - (d) review and approve the budget for each trust fund described under Subsection (2)(a);
 - (e) review financial records for each trust fund described under Subsection (2)(a), including trust fund receipts, expenditures, and investments;
 - (f) commission and obtain actuarial studies of the liabilities for each trust fund described under Subsection (2)(a);
 - (g) for purposes of the State Post-Retirement Benefits Trust Fund, establish labor additive rates to charge all federal, state, and other programs to cover:
 - (i) the annual required contribution as determined by actuary; and
 - (ii) the administrative expenses of the trust fund; and
 - (h) do any other things necessary to perform the state's fiduciary obligations under each trust fund described under Subsection (2)(a).
- (3) The attorney general shall:
- (a) act as legal counsel and provide legal representation to the board of trustees; and
 - (b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.

Amended by Chapter 310, 2013 General Session

Part 3

Trust Fund Investments

67-19d-301 Investment of State Post-Retirement Benefits Trust Fund.

- (1) The state treasurer shall invest the assets of the State Post-Retirement Benefits Trust Fund created under Section 67-19d-201 and the Elected Official Post-Retirement Benefits Trust Fund created under Section 67-19d-201.5 with the primary goal of providing for the stability, income, and growth of the principal.
- (2) Nothing in this section requires a specific outcome in investing.
- (3) The state treasurer may deduct any administrative costs incurred in managing trust fund assets from earnings before distributing them.
- (4)
 - (a) The state treasurer may employ professional asset managers to assist in the investment of assets of the trust fund.
 - (b) The treasurer may only provide compensation to asset managers from earnings generated by the trust fund's investments.

Amended by Chapter 376, 2012 General Session

67-19d-302 State treasurer to follow "prudent investor" rule -- Standard of care.

- (1) The state treasurer shall invest and manage the trust fund assets as a prudent investor would, by:
 - (a) considering the purposes, terms, distribution requirements, and other circumstances of the trust fund; and
 - (b) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.
- (2) In determining whether or not the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:
 - (a) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and
 - (b) evaluate the state treasurer's investment and management decisions respecting individual assets:
 - (i) not in isolation, but in the context of a trust fund portfolio as a whole; and
 - (ii) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the trust fund.

Enacted by Chapter 99, 2007 General Session